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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/862,858 | 05/22/2001 | Robert B. Chaffee | C0852/7013 JNA | 8373 |

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EXAMINER

CONLEY, FREDRICK C

| ART UNIT | PAPER NUMBER |
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3673

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,858

Applicant(s)

CHAFFEE, ROBERT B.

Examiner

Fredrick C Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9-12, 18-20, and 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 1,423,590 to Zimmerman.

In reference to claim 1, Zimmerman discloses a fastener comprising:

a housing 2 sized and adapted to mate with a fastening element 4; and

a latch 10 positioned relative to the housing to retain the fastening element within the housing; wherein the housing is formed from a sheet metal that is inherently flexible (col. 2 lines 83-92). Flexible is defined as capable of being bent or flexed. The apparatus disclosed by Zimmerman is constructed from a single flat piece of sheet metal and formed or bent with a die to form a housing with a flexible tongue, therefore the sheet metal would clearly have an inherent flexibility in order for the housing to be formed by the die.

Regarding claim 2, further including a flange 1 and wherein the housing and the latch are both connected to the flange.

Regarding claim 3, wherein the flange is configured so that it can be connected to a sheet of material (col. lines 78-82).

Regarding claim 5, wherein the housing comprises a side wall 11 and a retaining lip (12,13).

Regarding claim 6, wherein the retaining lip (12,13) defines a downwardly extending notch to accommodate a fastening element attachment mechanism.

Regarding claim 7, wherein the side wall 11 comprises a semi-circular section.

Regarding claim 9, wherein the latch is flexible (col. 2 lines 83-92).

Regarding claim 10, wherein the latch defines a flange generally parallel to a base of the housing and projecting towards the interior of the housing (fig. 11).

Regarding claim wherein the latch defines a protrusion having a portion corresponding to the shape of the fastening element (fig. 11).

Regarding claim 12, wherein the fastener is formed in a sheet of material (col. 2 lines 77-82).

In reference to claim 18, Zimmerman discloses a fastener comprising;
a housing 2 sized and adapted to mate with a fastening element 4; and
a latch 10 positioned relative to the housing to retain the fastening element within the housing, wherein the latch comprises a protrusion having a portion corresponding to the shape of the fastening element.

Regarding claim 19, further including a flange 1 and wherein the housing and the latch are both connected to the flange.

Regarding claim 20, wherein the flange is configured so that it can be connected to a sheet of material (col. 2 lines 78-82).

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Regarding claim 22, wherein the housing comprises a side wall 11 and a retaining lip (12,13).

Regarding claim 23, wherein the retaining lip (12,13) defines a notch to accommodate a fastening element attachment mechanism.

Regarding claim 24, wherein the sidewall comprises a semi-circular section.

Regarding claim 25-26, wherein the housing and latch are flexible (col. 2 lines 83-92). Flexible is defined as capable of being bent or flexed. The apparatus disclosed by Zimmerman is constructed from a single flat piece of sheet metal and formed or bent with a die to form a housing with a flexible tongue, therefore the sheet metal would clearly have an inherent flexibility in order for the housing to be formed by the die.

Regarding claim 27, wherein the latch comprises a flange generally parallel to a base of the housing and projecting towards the interior (fig. 11).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,423,590 to Zimmerman in view of U.S. Pat. No. 6,321,419 to Fildan et al.

Regarding claim 4 and 21, Zimmerman discloses all of the Applicant's claimed limitations except for the sheet of material comprising a thermoplastic and the flange and the sheet of material are heat sealed together. Fildan discloses a fastener assembly 10 with a sheet of material comprising a thermoplastic that is heat sealed together (col. 4 lines 61-68). It would have been obvious to employ a thermoplastic assembly wherein the components are heat sealed together in order to provide an inflatable beach item.

Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,855,033 to Frissen in view of U.S. Pat. No. Zimmerman.

In reference to claim 13, Frissen discloses a fastener assembly, comprising:
a fastening element 29,

a housing 31 connected to a bladder (23,25) and sized to mate with the fastening element. Frissen fails to disclose a latch positioned relative to the housing to retain the

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fastening element within the housing. Zimmerman discloses a fastener assembly having a latch 10 positioned relative to a housing 9 to retain a fastening element 4. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a fastening assembly having a latch positioned relative to the housing in order to prevent the components from becoming unintentionally disconnected.

Regarding claim 14, wherein the fastening element is flexible (col. 2 lines 83-92).

Regarding claim 15, wherein the housing is flexible (col. 2 lines 83-92).

In reference to claim 16, Frissen discloses a device comprising:

a substantially impermeable fluid bladder (23,25);

a housing 31 sized and adapted to mate with a fastening element 29. Frissen fails to disclose a latch positioned relative to the housing to retain the fastening element within the housing. Zimmerman discloses a fastener assembly having a latch 10 positioned relative to a housing 9 to retain a fastening element 4. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a fastening assembly having a latch positioned relative to the housing in order to prevent the components from becoming unintentionally disconnected.

Regarding claim 17, further comprising a flange 1 wherein the housing 9 and the latch 11 are connected to the flange (Zimmerman).

Response to Arguments

Applicant's arguments filed 12/31/02 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments, the housing disclosed by Zimmerman is formed from a sheet metal that is inherently flexible (col. 2 lines 83-92). As stated above, flexible is defined as capable of being bent or flexed. The apparatus disclosed by Zimmerman is constructed from a single flat piece of sheet metal and formed or bent with a die to form a housing with a flexible tongue. Thus, the sheet metal would clearly have an inherent flexibility in order for the housing to be formed by the die. Furthermore, there is no mention within the disclosure of the sheet metal being rigid.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Zimmerman discloses a fastener having a housing and latch members coupled together and retained together. Frissen discloses an inflatable beach bed having a beach towel having a fastening member 29 coupled to an inflatable beach bed by a plurality of

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members (31,33,35,37) provided on the bed. Frissen also discloses the capability of employing several alternate fastening members such as button/button hole structures or Velcro. One having ordinary skill in the art would not have found it novel nor a significant improvement in the art to merely choose from a plethora of well known fastening members to couple the blanket to the inflatable beach bed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 3057687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2168.

FC

March 11, 2003